

1 Honorable Brian D. Lynch  
2 Hearing date: December 19, 2018  
3 Hearing time: 9:00 a.m.  
4 Response date: December 12, 2018  
5 Chapter 7  
6 Location: Tacoma

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11 UNITED STATES BANKRUPTCY COURT  
12 WESTERN DISTRICT OF WASHINGTON

13 In re:

14 IAN and KERI SCHUMACHER,  
15 Debtors.

16 No. 17-43172

17 TRUSTEE'S SUPPLEMENTAL RESPONSE  
18 TO DEBTORS' MOTION DIRECTING  
19 TRUSTEE TO ABANDON REAL  
PROPERTY

20 COMES NOW, the Chapter 7 Trustee, Kathryn A. Ellis, and in response to the debtors'  
21 motion to compel abandonment states as follows:

22 1. The debtors' motion refers to an appraisal by David Pollack [sic], asserting an  
23 appraised market value of \$513,000. Although the motion states "See, Exhibit A", no Exhibit A  
24 was attached. In actuality, while the appraisal of Mr. Pollock does conclude that the market  
25 value is \$513,000.00, he does so precisely because of a 10% discount (\$57,000.00) based on the  
26 debtors' completion of a Form 17 claiming various "defects":

27 The Form 17 details a significant amount of issues associated with the house that the  
28 sellers do not plan to address ... [T]he sales suggest a market value for the subject of  
\$570,000. The appraiser has applied a 10% discount to this number to account for the  
risk and "as is" condition of the sale. This discount of \$57,000 when deducted from the  
suggested price would indicate a probable value for the subject of \$513,000.

See Exhibit 1 attached to the Declaration of Kathryn A. Ellis submitted herewith. In June of  
2017, the debtors obtained a Comparative Market Analysis recommending a list price between  
\$550,000 to \$575,000. See Exhibit 2 attached to the Declaration of Kathryn A. Ellis submitted

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TRUSTEE'S SUPPLEMENTAL RESPONSE TO DEBTORS'  
MOTION DIRECTING TRUSTEE TO ABANDON REAL PROPERTY - 1

1 herewith. Accordingly, the debtors' reduced valuation is disingenuous. The actual appraised  
2 value, without the extensive Form 17 manipulations, is as follows:

|                           |                     |
|---------------------------|---------------------|
| Value:                    | \$570,000.00        |
| Less costs of sale:       | \$45,600.00         |
| Less first Deed of Trust: | \$362,103.00        |
| Less real estate taxes:   | \$8,813.14          |
| Less homestead exemption: | <u>\$125,000.00</u> |
| Estimated net proceeds:   | \$28,483.86         |

7           2. Abandoning this property, apart from the fact there is equity that can be  
8 administered, would not be appropriate at this time. The debtors assuredly would still have to  
9 file a motion to avoid the judicial lien of T. Garrett Construction Inc. As T. Garrett Construction  
10 Inc. and the debtors obviously cannot agree on value, an evidentiary hearing would have to be  
11 conducted in any event to determine whether the judicial lien impairs the debtors' homestead  
12 exemption.

14           3. The Trustee has offered to 'sell' the debtors the estate's interest in the excess  
15 equity in the property but the offer has been declined. Based on the time of season, it is not  
16 anticipated that there will be significant interest in any real estate listings until early Spring  
17 2019. The Court is requested to simply deny this present motion without prejudice to re-file in  
18 early Spring 2019. The debtors' homestead exemption is fully protected until that time.

20           DATED this 12<sup>th</sup> day of December, 2018.  
21

22           By: /s/ Kathryn A. Ellis  
23           Kathryn A. Ellis, Trustee

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26  
27  
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**TRUSTEE'S SUPPLEMENTAL RESPONSE TO DEBTORS'  
MOTION DIRECTING TRUSTEE TO ABANDON REAL PROPERTY - 2**